

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|  |   |                 |
|--|---|-----------------|
| BELLSOUTH TELECOMMUNICATIONS, INC.'S   | ) |                 |
| REQUEST FOR CONFIDENTIAL TREATMENT     | ) | CASE NO. 97-238 |
| OF INFORMATION FILED IN SUPPORT OF ITS | ) |                 |
| CONTRACT FOR KMART CORPORATION         | ) |                 |

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed May 5, 1997, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost information filed in support of its Volume and Term Agreement with Kmart Corporation ("Kmart") on the grounds that disclosure of the information is likely to cause BellSouth competitive injury, and it appearing to this Commission as follows:

BellSouth has entered into a Volume and Term Agreement with Kmart to provide certain services at a discount rate. The services to be provided are basic business services (including Business local exchange service, Prestige® Communications Service, Back-up\* Line, RingMaster\* Service, Inside Wire, and various vertical services), PBX Trunks and Direct Inward Dialing, and Hunting. In support of the contract, BellSouth has filed cost information which it seeks to protect as confidential.

The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those employees who have a business need to know and to act upon the information. BellSouth seeks to preserve and protect the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Basic business services, PBX Trunks and Direct Inward Dialing, and Hunting are primarily local exchange services. BellSouth's competitors for local service include alternate access providers, resellers and interexchange carriers. Disclosure of the information sought to be protected would enable BellSouth's competitors to determine BellSouth's cost and contribution from the service which they could use in marketing their competing services to the detriment of BellSouth. Therefore, disclosure of the information is likely to cause BellSouth competitive injury, and the information should be protected as confidential.


This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost information filed in support of the Volume and Term Agreement with Kmart, which BellSouth has petitioned to be withheld from public, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 29th day of May, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director